

Michael Buschbacher (*pro hac vice*)
 James R. Conde (*pro hac vice*)
 James R. Wedeking (*pro hac vice*)
 Laura B. Ruppalt (*pro hac vice*)
 Boyden Gray PLLC
 800 Connecticut Avenue NW, Suite 900
 Washington, D.C. 20006
 (202) 955-0620
 mbuschbacher@boydengray.com

John B. Thomas (Bar No. 269538)
 Jessica Wahl (Bar No. 321887)
 Hicks Thomas LLP
 701 University Avenue, Suite 106
 Sacramento, California 95825
 (916) 241-8414
 jthomas@hicks-thomas.com

Counsel for Proposed Intervenor-Defendants
American Free Enterprise Chamber of Commerce, et al.
 (additional counsel and parties on signature pages)

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

STATE OF CALIFORNIA, STATE OF
 COLORADO, STATE OF DELAWARE,
 COMMONWEALTH OF
 MASSACHUSETTS, STATE OF NEW
 JERSEY, STATE OF NEW MEXICO,
 STATE OF NEW YORK, STATE OF
 OREGON, STATE OF RHODE ISLAND,
 STATE OF VERMONT, and STATE OF
 WASHINGTON,

Plaintiffs,

v.

UNITED STATES OF AMERICA, U.S.
 ENVIRONMENTAL PROTECTION
 AGENCY, LEE ZELDIN, in his official
 capacity as Administrator of the U.S.
 Environmental Protection Agency, and
 DONALD J. TRUMP, in his official capacity
 as President of the United States,

Defendants.

No. 4:25-cv-04966-HSG

**PROPOSED INTERVENOR-
 DEFENDANTS' MOTION FOR LEAVE
 TO FILE STATEMENT OPPOSING
 PLAINTIFFS' NOTICE OF PENDENCY
 OF OTHER ACTIONS**

Date: December 4, 2025
 Time: 2:00 p.m.
 Courtroom: 2, 4th Floor Oakland Courthouse
 Judge: Hon. Haywood S. Gilliam, Jr.

NOTICE OF MOTION

PLEASE TAKE NOTICE that on December 4, 2025 at 2:00 p.m., or as soon thereafter as the matter may be heard in Courtroom 2 (4th Floor) of the above-named Court (Hon. Haywood S. Gilliam, Jr. presiding), located at 1301 Clay Street, Oakland, California 94612, Proposed Intervenor-Defendants listed on the signature page will, and hereby do, move for leave to file the attached Statement Opposing the Notice of Pendency of Other Actions filed by Plaintiffs State of California and other States (“Plaintiffs”), ECF No. 142, as described below.

**MOTION FOR LEAVE TO FILE STATEMENT OPPOSING PLAINTIFFS’ NOTICE
OF PENDENCY OF OTHER ACTIONS**

Pursuant to Civil Local Rule 7-2, Proposed Intervenor-Defendants respectfully move for leave to file the Statement Opposing Plaintiffs’ Notice of Pendency of Other Actions, attached to this Motion as Exhibit 1. This Motion is supported by the Memorandum below.

MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF ISSUES

1. Whether Proposed Intervenor-Defendants may file their Statement Opposing Plaintiffs’ Notice of Pendency of Other Actions, Exhibit 1 (“Statement”).

BACKGROUND

On June 12, 2025, Plaintiffs filed this suit, alleging that three federal laws that invalidated waivers of Clean Air Act preemption issued by the U.S. Environmental Protection Agency (“EPA”) are unconstitutional or were otherwise unlawfully enacted. *See* Compl., ECF No. 1. Plaintiffs seek to have the laws declared void and the waivers declared “valid and in effect.” *Id.* at 39. As a result of this legislation, three California programs regulating emission standards for new motor vehicles are expressly preempted by the Clean Air Act, and Plaintiffs cannot “adopt or attempt to enforce” them. 42 U.S.C. § 7543(a). Proposed Intervenor-Defendants are a State and several trade associations whose members are harmed by the California programs, and who promptly moved to intervene in this case to defend their interests in ensuring that the programs are not enforced. ECF Nos. 49, 61, 86, 92, 112. The motions for intervention are fully briefed and scheduled for hearing October 23, 2025.

On September 26, 2025, Plaintiffs filed a Notice of Pendency of Other Actions identifying two suits pending in federal district court: *Daimler Truck North America LLC v. California Air Resources Board* (“*Daimler*”), No. 2:25-cv-02255 (E.D. Cal.) and *American Free Enterprise Chamber of Commerce v. Cliff* (“*AmFree Illinois*”), No. 3:24-cv-50504 (N.D. Ill.). See ECF No. 142 (“Plaintiffs’ Notice”). The Notice asserts that transfer of this case to the Eastern District of California “may be appropriate” in light of *Daimler*. *Id.* at 5, 7.

ARGUMENT

The Statement explains Proposed Intervenor-Defendants’ opposition to Plaintiffs’ suggestion that *Daimler* warrants transfer of this case. Like *AmFree Illinois*, *Daimler* challenges different transactions, raises different claims, and involves different parties than this case. No judicial economy would be achieved by transfer.

Moreover, the Statement provides notice of related developments in two other actions pending in the original jurisdiction of the Ninth Circuit Court of Appeals. Plaintiffs’ claims relating to the validity of the federal laws are at issue in motions pending in petitions challenging the EPA waivers for two of the three California programs relevant to this case. See *Am. Free Enter. Chamber of Com. v. EPA*, No. 25-89 (9th Cir.) and consolidated petitions, *Am. Free Enter. Chamber of Com. v. EPA*, No. 25-106 (9th Cir.) and consolidated petitions. Many parties in this case—including ten of the eleven Plaintiff States, defendant United States, and several Proposed Intervenor-Defendants—are already parties to one or more of the Ninth Circuit actions.

Civil Local Rule 3-13(c) provides that “[n]o later than 14 days after service of a Notice ... any party may file with the Court a statement supporting or opposing the notice.” As their motion to intervene remains pending, Proposed Intervenor-Defendants seek leave to file the attached Statement to preserve their ability to participate in this case without disrupting the Court’s schedule. See *Drakes Bay Oyster Co. v. Salazar*, No. 12-cv-6134, 2013 WL 451813, at *9 n.6 (N.D. Cal. Feb. 4, 2013) (proposed intervenors should seek leave for filing). They request that the Statement be filed should their motion to intervene be granted. See, e.g., *Wash. Cattlemen’s Ass’n v. EPA*, No. C19-0569, 2019 WL 3206052, at *2–3 (W.D. Wash. July 16, 2019) (granting leave to file brief in opposition when granting intervention).

Dated: October 10, 2025

Respectfully submitted,

Sean Howell, Bar No. 315967
GIBSON, DUNN & CRUTCHER LLP
One Embarcadero Center
Suite 2600
San Francisco, CA 94111
Tel.: 415-393-8355
Fax: 415-801-7364
showell@gibsondunn.com

/s/ Michael Buschbacher
Michael Buschbacher (*pro hac vice*)
James R. Conde (*pro hac vice*)
James R. Wedeking (*pro hac vice*)
Laura B. Ruppalt (*pro hac vice*)
Boyden Gray PLLC
800 Connecticut Avenue NW, Suite 900
Washington, D.C. 20006
(202) 955-0620
mbuschbacher@boydengray.com

/s/ Rachel Levick
Raymond B. Ludwiszewski (*pro hac vice*)
Rachel Levick (*pro hac vice*)
GIBSON, DUNN & CRUTCHER LLP
1700 M Street, NW
Washington, DC 20036
Tel.: 202-955-8500
Fax: 202-467-0539
rludwiszewski@gibsondunn.com
rlevick@gibsondunn.com

John B. Thomas (Bar No. 269538)
Jessica Wahl (Bar No. 321887)
Hicks Thomas LLP
701 University Avenue, Suite 106
Sacramento, California 95825
(916) 241-8414
jthomas@hicks-thomas.com

*Attorneys for Proposed Intervenor-Defendants
The Alliance for Automotive Innovation and
The National Automobile Dealers Association*

*Counsel for Proposed Intervenor-Defendants
American Free Enterprise Chamber of
Commerce, Illinois Corn Growers Association,
Indiana Corn Growers Association, Iowa Corn
Growers Association, Kansas Corn Growers
Association, Kentucky Corn Growers Association,
Michigan Corn Growers Association, Missouri
Corn Growers Association, Nebraska Corn
Growers Association, Tennessee Corn Growers
Association, Texas Corn Producers, Wisconsin
Corn Growers Association, and National Corn
Growers Association*

Steven P. Lehotsky* (DC 992765)
Michael B. Schon* (DC 989893)
Lehotsky Keller Cohn LLP
200 Massachusetts Ave., NW
Suite 700
Washington, DC 20001
Email: steve@lkcfirm.com
Email: mike@lkcfirm.com
Tel.: (512) 693-8350
Fax: (512) 727-4755

/s/ Theodore Hadzi-Antich
Robert Henneke (*pro hac vice*)
Theodore Hadzi-Antich (Bar No. 264663)
Eric Heigis (Bar No. 343828)
Texas Public Policy Foundation
901 Congress Avenue
Austin, Texas 78701
(512) 472-2700
tha@texaspolicy.com

/s/ Katherine C. Yarger
Katherine C. Yarger* (CO 40387)
Lehotsky Keller Cohn LLP
700 Colorado Blvd., #407
Denver, CO 80206
Email: katie@lkcfirm.com
Tel.: (512) 693-8350
Fax: (512) 727-4755

*Attorneys for Proposed Intervenor Western States
Trucking Association, Inc. and Construction
Industry Air Quality Coalition, Inc.*

*Attorneys for Proposed Intervenor American Fuel
& Petrochemical Manufacturers, American
Petroleum Institute, and the National Association
of Convenience Stores*

* Admitted *pro hac vice*.

1 /s/James K. Rogers

James K. Rogers*

2 Ryan Giannetti*

America First Legal Foundation

3 611 Pennsylvania Ave., SE #231

Washington, D.C. 20003

4 (202) 964-3721

James.Rogers@aflegal.org

5 Ryan.Giannetti@aflegal.org

6 Brandon Q. Tran

CA Bar No. 223435

7 btran@dhillonlaw.com

4675 MacArthur Court, Suite 1410

8 Newport Beach, CA 92660

9 Ken Paxton

Attorney General of Texas

10 Brent Webster

11 First Assistant Attorney General

12 Ralph Molina

Deputy First Assistant Attorney General

13 Austin Kinghorn

14 Deputy Attorney General for Civil Litigation

15 Kellie E. Billings-Ray

Chief, Environmental Protection Division

16 Ian Lancaster*

17 Wesley S. Williams*

Assistant Attorneys General

18 Office of the Attorney General

Environmental Protection Division

19 Special Litigation Division

P.O. Box 12548, Capitol Station

20 Austin, Texas 78711-2548

(512) 463-2012

21 Ian.Lancaster@oag.texas.gov

Wesley.Williams@oag.texas.gov

22 * Admitted *pro hac vice*.

23 *Counsel for Proposed Intervenor-Defendant*

24 *State of Texas*

Pursuant to Local Rule 5-1(i)(3), I attest that all signatories to this document concurred in its filing.

26 /s/ Michael Buschbacher

Michael Buschbacher

27 *Counsel for Proposed Intervenor-Defendants*

American Free Enterprise Chamber of Commerce, et al.

28

CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2025, I served a copy of the foregoing document via CM/ECF to all parties.

Dated: October 10, 2025

/s/ Michael Buschbacher
Michael Buschbacher
Boyden Gray PLLC
800 Connecticut Ave. NW, Suite 900
Washington, DC 20006
(202) 955-0620
mbuschbacher@boydengray.com

*Counsel for Proposed Intervenor-Defendants
American Free Enterprise Chamber of
Commerce, et al.*